

Message Text

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ACTION L-03

INFO OCT-01 AF-10 ARA-10 EA-10 EUR-12 NEA-10 IO-13
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FM AMEMBASSY OTTAWA
TO SECSTATE WASHDC 8242

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E.O. 11652: N/A
TAGS: EAIR, CA
SUBJECT: CIVAIR: CHANGE OF GAUGE

REF: STATE 187278

1. RAY YANG, DIRECTOR, INTERNATIONAL POLICY - AIR OF AIR
TRANSPORTATION ADMINISTRATION, TRANSPORT CANADA, WITH WHOM
WE DISCUSSED REFTEL, IS QUITE FAMILIAR WITH CHANGE OF GAUGE
PROVISIONS OF BILATERALS. HE NOTED THAT HE HAD PARTICIPATED
IN PREPARATION OF ICAO HANDBOOKS COVERING TECHNICAL AND
ADMINISTRATIVE CLAUSES OF BILATERAL AVIATION AGREEMENTS IN
EARLY 1960'S, AND SUGGESTED ICAO'S BOOK ON TECHNICAL
ARTICLES MAY PROVIDE SOME USEFUL INFORMATION. HE KNEW OF
NO CANADIAN ARTICLES OR STUDIES ON THE SUBJECT.

2. SOME CANADIAN BILATERALS INCLUDE CHANGE OF GAUGE PROVIS-
IONS, YANG SAID. HE PROVIDED FOLLOWING EXCERPTS (A) AND (B)
AS EXAMPLES, AND ALSO REFERRED TO 1955 LANGUAGE OF PAKISTAN/
TURKEY BILATERAL (C):

(A) CANADA/ARGENTINA AGREEMENT (1978)

QUOTE. THE DESIGNATED AIRLINE OF EITHER CONTRACTING PARTY
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MAY MAKE A CHANGE OF GAUGE AT THE INTERMEDIATE POINTS ON
THE SPECIFIED ROUTES PROVIDED THAT:

(1) OPERATIONS BEYOND THE POINT OF CHANGE OF GAUGE SHALL BE
PERFORMED BY AN AIRCRAFT HAVING CAPACITY LESS FOR OUTBOUND
SERVICES, OR MORE FOR INBOUND SERVICES THAN THAT OF THE
ARRIVING AIRCRAFT;

(2) SUCH AIRCRAFT SHALL HAVE THE SAME FLIGHT NUMBER. UNQUOTE

(B) CANADA/MEXICO AGREEMENT (1953)

QUOTE. ARTICLE VI: A DESIGNATED AIRLINE OF ONE CONTRACTING PARTY MAY MAKE A CHANGE OF GAUGE AT A POINT IN THE TERRITORY OF THE OTHER CONTRACTING PARTY ONLY ON THE FOLLOWING CONDITIONS:

(1) THAT IT IS JUSTIFIED BY REASON OF ECONOMY OF OPERATION;

(2) THAT THE AIRCRAFT USED ON THE SECTION ON WHICH LESS TRAFFIC IS CARRIED BY THE AIRLINE TO AND FROM THE TERRITORY OF THE FIRST CONTRACTING PARTY ARE SMALLER IN CAPACITY THAN THOSE USED ON THE OTHER SECTION;

(3) THAT THE AIRCRAFT OF SMALLER CAPACITY SHALL OPERATE ONLY IN CONNECTION WITH THE AIRCRAFT OF LARGER CAPACITY AND SHALL BE SCHEDULED SO TO DO; THE FORMER SHALL ARRIVE AT THE POINT OF CHANGE FOR THE PURPOSE OF CARRYING TRAFFIC TRANSFERRED FROM, OR TO BE TRANSFERRED TO, THE AIRCRAFT OF LARGER CAPACITY; AND THEIR CAPACITY SHALL BE DETERMINED WITH PRIMARY REFERENCE TO THIS PURPOSE;

(4) THAT THERE IS AN ADEQUATE VOLUME OF THROUGH TRAFFIC; LIMITED OFFICIAL USE

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AND

(5) THAT THE PROVISIONS OF ARTICLE V OF THIS AGREEMENT SHALL GOVERN ALL ARRANGEMENTS MADE WITH REGARD TO CHANGE OF GAUGE. UNQUOTE.

(NOTE: ARTICLE V DEALS WITH CAPACITY PROVISION)

(C) PAKISTAN/TURKEY AGREEMENT (1955)

QUOTE. ARTICLE X: WHEN, FOR THE PURPOSE OF ECONOMY OF ONWARD CARRIAGE OF THROUGH TRAFFIC, AIRCRAFT OF DIFFERENT CAPACITY ARE USED BY A DESIGNATED AIRLINE OF ONE CONTRACTING PARTY ON DIFFERENT SECTIONS OF A SPECIFIED AIR ROUTE, WITH THE POINT OF CHANGE IN THE TERRITORY OF THE OTHER CONTRACTING PARTY, SUCH CHANGE OF AIRCRAFT SHOULD NOT BE INCONSISTENT WITH THE PROVISIONS OF THIS AGREEMENT RELATING TO THE CAPACITY OF THE AIR SERVICES AND THE CARRIAGE OF TRAFFIC. IN SUCH CASES, THE SECOND AIRCRAFT SHALL BE SCHEDULED TO PROVIDE A CONNECTING SERVICE WITH THE FIRST AIRCRAFT, AND SHALL AWAIT ITS ARRIVAL EXCEPT IN THE CASE OF FORCE MAJEURES. THIS CHANGE OF AIRCRAFT

IN THE TERRITORY OF EITHER CONTRACTING PARTY CAN ONLY
TAKE PLACE IN RESPECT OF TRAFFIC PROCEEDING BEYOND THAT
TERRITORY AND AT THE LAST AIRPORT OF CALL THEREIN. UNQUOTE.

3. YANG'S UNDERSTANDING OF OPERATION OF CHANGE OF GAUGE
IS THE SAME AS US INTERPRETATION. THAT IS, THAT CHANGE OF
AIRCRAFT SIZE SHOULD BE PERMITTED ANYWHERE ON THE ROUTE
(NOT ONLY WITHIN SIGNATORIES' TERRITORY) SO LONG AS
BILATERAL DOES NOT SPECIFICALLY PROHIBIT SUCH ACTION,
SINCE CHANGE IS MADE TO IMPROVE EFFICIENCY OF THE OPERATION.

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4. WE ARE REVIEWING CANADIAN PERIODICAL INDEX TO LOCATE
ANY COMMENT OR STUDY WHICH MAY HAVE BEEN DONE ON CHANGE
OF GAUGE AND WILL REPORT FURTHER IF ANY ARE FOUND.
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